



**CITY COUNCIL
ATLANTA, GEORGIA**

04-O-0875

**AN ORDINANCE BY COUNCILMEMBER DEBI STARNES
AS SUBSTITUTED BY THE PUBLIC SAFETY AND LEGAL
ADMINISTRATION COMMITTEE**

**AN ORDINANCE TO AMEND CHAPTER 10, ARTICLE II,
DIVISION 2, SECTION 10-88(E) OF THE CITY OF ATLANTA
CODE OF ORDINANCES SO AS TO PROVIDE AN ADDITIONAL
EXEMPTION TO AUTHORIZE ENTERTAINMENT AT A
RESTAURANT OR SIDEWALK CAFE WHICH SELLS
ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION
IF THE RESTAURANT OR SIDEWALK CAFE MEETS CERTAIN
REQUIREMENTS; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Atlanta has an interest in protecting the public regarding potential risks to public safety and health; and

WHEREAS, due to this interest, the City of Atlanta has established regulations regarding the sale of alcoholic beverages within its city limits; and

WHEREAS, many years ago, the City of Atlanta enacted certain regulations which provide that distance requirements must be met in order to obtain a license to sell alcoholic beverages in restaurants and sidewalk cafes for on-premises consumption; and

WHEREAS, the current requirements set forth distance requirements between establishments licensed to sell alcoholic beverages for on-premises consumption and various types of property uses including college campuses; and

WHEREAS, the City of Atlanta regulations currently provide that restaurants and sidewalk cafes are exempt from having to meet the specific distance requirements as long as such establishments do not provide entertainment; and

WHEREAS, the City of Atlanta recognizes that the prohibition regarding entertainment is antiquated, is not flexible, and is not always desirable within the City's various communities; and

WHEREAS, due to redevelopment and growth within the City, the City of Atlanta enacted legislation which allows a restaurant or sidewalk cafe located within a mixed-use development (as defined in Section 16-29.001(24) of the City Code) which contains retail, office and residential space to sell alcoholic beverages for on-premises consumption and to provide entertainment no matter where the mixed-use development is located; and

WHEREAS, Georgia Tech has recently constructed Technology Square which consists of an innovative multi-building complex of new facilities which is being used for the following purposes: educational instruction, retail shopping, dining, conventions and conferences; and



WHEREAS, the City of Atlanta recognizes that Technology Square is not classified as a "mixed-use development" because it does not contain any residential space; and

WHEREAS, the City of Atlanta has recently approved the sale of alcoholic beverages for on-premises consumption within Technology Square even though the facility is located within 600 feet of a college campus; and

WHEREAS, Fifth Street Ribs n Blues, a restaurant located within Technology Square, currently has a license to sell alcoholic beverages for on-premises consumption within its premises; and

WHEREAS, Fifth Street Ribs n Blues desires to provide entertainment for its customers but currently cannot provide such entertainment due to its distance to the Georgia Tech campus and the prohibition regarding entertainment; and

WHEREAS, due, in part, to its location within Technology Square, the fact that Fifth Street Ribs n Blues already has a license to sell alcoholic beverages, and the fact that Fifth Street Ribs n Blues has been operating responsibly and without any violations, Fifth Street Ribs n Blues has received an enormous amount of support from Midtown Alliance, Georgia Institute of Technology and its community and surrounding neighbors in favor of its request to be authorized to provide entertainment while maintaining its alcoholic beverage license; and

WHEREAS, the City of Atlanta recognizes that the prohibition regarding the provision of entertainment within 600 feet of a college campus may unintentionally affect other restaurants or sidewalk cafes similar to Fifth Street Ribs n Blues which are located on or near college campuses; and

WHEREAS, the City of Atlanta desires to encourage opportunities for economic development within the City and, thus, desires to allow restaurants and sidewalk cafes which are located within a multi-building complex located on a college campus which encompasses retail shopping, restaurants, institutional office space, space used for research and education and conference center space to provide entertainment to their customers; and

WHEREAS, in *State of Georgia v. Heretic, Inc., et al.*, 277 Ga. 275, 588 S.E. 2d 224 (2003), the Supreme Court of Georgia held that a city may establish regulations for one kind of establishment which sells alcoholic beverages for on-premises consumption which differ from regulations which pertain to other kinds of establishments which sell alcoholic beverages for on-premises consumption, including exemptions from general regulations, as long as "any state of facts can reasonably be conceived to support the legislature's exception . . ." and

WHEREAS, the City of Atlanta acknowledges there currently exists in the City Code a distinction in regard to distance requirements for restaurants and sidewalk cafes and distance requirements for other establishments which sell alcoholic beverages for on-premises consumption which will not be changed by the amendment detailed below; and



WHEREAS, the City of Atlanta recognizes that among the numerous reasons for this distinction is the fact that the primary business of restaurants and sidewalk cafes is the sale of food and that the sale of alcoholic beverages is merely incidental to the business of such establishments; and

WHEREAS, the City of Atlanta recognizes that due to their inherent nature, restaurants and sidewalk cafes appeal to persons of all ages, including families, and that the addition of entertainment at such establishments will allow persons of all ages to enjoy entertainment in a pleasant and safe venue and will not hinder the public's safety and health; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

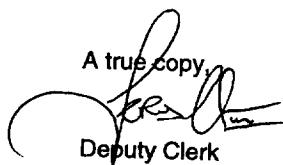
Section 1. That Chapter 10, Article II, Division 2, Section 10-88(e) of the City of Atlanta Code of Ordinances be amended to add additional language so that the subsection shall thereafter read as follows:

10-88 (e) The provisions of this section shall not apply to licenses issued hereunder to restaurants or sidewalk cafes, as defined in section 10-1, for the sale of alcoholic beverages for on-premises consumption; provided, however, that in order for a restaurant or sidewalk café to come within this exemption it shall provide no entertainment, as defined in section 10-1, unless it is located either:

- (i) within a mixed-use development (as that term is defined in section 16-29.001(24)) that has zoning approval for at least 50,000 square feet of retail space, 100,000 square feet of office space and 300 residential units or
- (ii) within a multi-building complex, which, for purposes of this code section, shall mean a group of buildings planned, developed and managed as a unit which is comprised of at least 50,000 square feet of retail shopping and/or restaurant space, at least 50,000 square feet of institutional office space; at least 100,000 square feet of space used for research and education, and at least 100,000 square feet of conference center space, as long as such multi-building complex is located on a college campus.

Under no circumstances may music and/or live entertainment be provided in an outdoor dining area.

Section 2. Should any ordinance or part thereof be found to conflict with this ordinance or the provisions thereof, then those sections contained herein shall be deemed controlling.

A true copy,

Deputy Clerk

ADOPTED by the Council
APPROVED by the Mayor

July 6, 2004
July 14, 2004

RCS# 5866
7/06/04
2:17 PM

Atlanta City Council

Regular Session

04-O-0875 AMEND 10-88(E) PROVIDE ADD EXEMPT AUTHO
 ENTRTNMENT REST ALCOHOL ON-PREM
 ADOPT ON SUB

YEAS: 11
NAYS: 4
ABSTENTIONS: 0
NOT VOTING: 0
EXCUSED: 0
ABSENT 0

Y Smith	Y Winslow	Y Shook	N Martin	Y Mitchell
Y Starnes	N Archibong	Y Muller	Y Maddox	Y Norwood
Y Young	Y Fauver	N Moore	Y Mosley	N Willis

04-O-0875

04-0875
(Do Not Write Above This Line)

AT ORDINANCE BY
COUNCILMEMBER DEBI
STARINES:

TO AMEND CHAPTER 10,
ARTICLE II, DIVISION 2, SECTION
10-83(E) OF THE CITY OF
ATLANTA CODE OF ORDINANCES
SO AS TO PROVIDE AN
ADDITIONAL EXEMPTION TO
AUTHORIZE ENTERTAINMENT AT
A RESTAURANT WHICH SELLS
ALCOHOLIC BEVERAGES FOR ON-
PREMISES CONSUMPTION IF THE
RESTAURANT MEETS CERTAIN
REQUIREMENTS; AND
OTHER PURPOSES. **ADOPTED BY**

JUL 06 2004

COUNCIL

Substitute

- ☐ CONSENT REFER
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☒ PERSONAL PAPER REFER

Date Referred 05/03/04

Referred To: Public Safety & Justice

Date Referred 5/17/04

Referred To: Public Safety & Legal

Date Referred

Referred To:

First Reading

Committee
Date
Chair
Referred To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Refer To

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Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

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Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

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FINAL COUNCIL ACTION

☒ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED
JUL 6 2004

COUNCIL PRESIDENT PROTEM

JUL 06 2004

MAYOR'S ACTION

MAYOR'S ACTION

APPROVED

MAYOR